

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DR. HANSEL M. DEBARTOLO,

Plaintiff,

v.

XO COMMUNICATIONS, INC.
HEALTH CARE PLAN,

Defendant.

Case No. 07 C 6967
Judge Charles P. Kocoras
Courtroom 1725
Magistrate Judge Geraldine Soat Brown
Courtroom 1812

**DEFENDANT'S UNOPPOSED MOTION FOR TEN DAY EXTENSION TO
ANSWER OR PLEAD TO AMENDED COMPLAINT**

Defendant, XO Communications, Inc. Health Care Plan ("Plan"), by its attorneys, pursuant to Rule 6, Fed. R. Civ. P., moves this court for a ten day extension, to and including July 23, 2008, to answer or otherwise plead to the Amended Complaint. In support of its motion, the Plan states as follows:

1. This ERSIA action was originally brought against XO Communications, Inc. (whom plaintiff incorrectly identified as XO Communications Services, Inc.) ("XO"). After XO filed its Motion for Judgment on the Pleadings, which asserted, among other things, that judgment in its favor was warranted because plaintiff had not sued the proper party, the Plan, plaintiff agreed to dismiss the action as to XO with prejudice and subsequently filed an Amended Complaint naming the Plan as the defendant.
2. The Amended Complaint was filed on June 23, 2008.
3. On June 25, 2008, counsel for XO telephoned counsel for plaintiff and advised that she would accept service of the Amended Complaint on behalf of the Plan. She also advised

plaintiff's counsel that she would be on vacation the first two weeks in July and requested a ten day extension to answer or plead. Counsel for plaintiff stated he had no objection.

Wherefore, defendant, XO Communications, Inc. Health Care Plan moves this court for an order extending the date for it to answer or otherwise plead to the Amended Complaint by ten days, to and including July 23, 2008 and for such additional relief this court deems appropriate.

Respectfully submitted,

s/Lynn U. Thorpe
Lynn U. Thorpe
35 East Wacker Drive, Suite 500
Chicago, IL 60601
Phone 312- 236-0475
Fax 312-236-1750
E-mail: lynn_thorpe@gshllp.com

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: thoevel@hoevellaw.com and I certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: N/A.

s/Lynn U. Thorpe
Lynn U. Thorpe
35 East Wacker Drive, Suite 500
Chicago, IL 60601
Phone 312- 236-0475
Fax 312-236-1750
E-mail: lynn_thorpe@gshllp.com

ATTORNEYS FOR DEFENDANT